IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 255 of 1999

Between:

M/s. Tirumala Modern Rice Mill, Thimmapur Village, J.R.Gudem Mandal,

Nalgonda District, rep. by its Proprietor, K.Tirumala Rao.

..... PETITIONER

AND

1. The Member Secretary, APSEB, Vidyuth Soudha, Somajiguda, Hyderabad.
2. The Chief Engineer, Hyderabad zone, A.P.S.E.B Mind Compound, Hyderabad.
3. The Superintending Engineer, Assessments, A.P.S.E.B. Humayun Nagar, Hyderabad.
4. The Assistant Accounts Officer, E.R.O., A.P.S.E.B., Suryapet, Nalgonda District.
5. The Assistant Divisional Engineer, Operation, A.P.S.E.B., Suryapet, Nalgonda District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly a writ in the nature of Mandamus, by setting aside the orders passed by the 3rd respondent in his order No.SEA/HYD/F.NLG-365/SAT-6407/dated
24-11-1997 and confirmed by the 2nd respondent through his proceedings

Lr.No.CEE/HZ/SMRT/A1 of 98/D.No.2374/98 dated 28-9-1998, as illegal, arbitrary and against the principles of natural justice.

Counsel for the Petitioner: MR.E.SAMBASIVA PRATAP

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard both sides.

The petitioner herein, who is running a rice mill, seeks to assail the impugned proceedings of assessment in pursuance of irregularities found during the inspection conducted on 28.07.1993.

During the inspection conducted on 28.07.1993, it was found that (i) the service was running in spite of disconnection, (ii) it exceeded the sanctioned load by 2 HP and (iii) the meter was struck up in 'R' phase. This was followed by a provisional assessment and also due notice to the petitioner. The petitioner has filed his explanation and ultimately final assessment was made determining the liability of the petitioner at Rs.1,21,632/-.

It is submitted by the learned counsel for the petitioner that having regard to the fact that the petitioner's rice mill is a very small one, the assessment made is on higher side and further even the

allegations made against the petitioner are incorrect.

Considering the submissions made and also on perusal of the material, it is seen that there is no dispute regarding the fact that the inspection was conducted and the petitioner was charge sheeted with three aforesaid allegations. During the pendency of the proceedings, the petitioner has also deposited a sum of Rs.27,500/- initially and subsequently also he has deposited a sum of Rs.55,000/- as per the interim orders of this Court on 12.01.1999 in W.P.M.P.No.300 of 1999.

By taking into consideration the fact that the inspection was conducted as long back as on 28.07.1993 and the petitioner has been running a small rice mill in a village, more so, the amount as assessed apparently being slightly on higher side, the same can be reduced to Rs.1,00,000/-.

In view of the same, the writ petition is allowed in part reducing the final assessment i.e., Rs.1,21,632/- as Rs.1,00,000/-. No costs.

It is needless to mention that any amount paid by the petitioner in the meantime shall be given credit to.

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16.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Sixteenth Day of December, Two Thousand and Four.

To

1. The Member Secretary, APSEB, Vidyuth Soudha, Somajiguda, Hyderabad.
2. The Chief Engineer, Hyderabad zone, A.P.S.E.B Mind Compound, Hyderabad.
3. The Superintending Engineer, Assessments, A.P.S.E.B. Humayun Nagar, Hyderabad.
4. The Assistant Accounts Officer, E.R.O., A.P.S.E.B., Suryapet, Nalgonda District.
5. The Assistant Divisional Engineer, Operation, A.P.S.E.B., Suryapet, Nalgonda District.
6. 2 CD copies.